

Division of Securities  
Utah Department of Commerce  
160 East 300 South  
Box 146760  
Salt Lake City, UT 84114-6760  
Telephone: (801) 530-6600  
FAX: (801) 530-6980

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**BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH**

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**IN THE MATTER OF:**

ACCESS FINANCIAL GROUP, INC.,  
CRD#33065;  
ANTHONY PAPPAS, CRD#2160492;  
VICTOR CHIGAS, SR., CRD#45714;  
RICHARD KONST, CRD#273746; and  
**TODD ALLEN DAVIS, CRD#2095162**

**Respondents.**

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**STIPULATION AND CONSENT  
ORDER AS TO TODD DAVIS**

Docket No. SD-00-0041

Docket No. SD-00-0042

Docket No. SD-00-0044

Docket No. SD-00-0045

**Docket No. SD-00-0043**

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The Utah Division of Securities (Division), by and through its Director of Licensing, George Robison, and Respondent Todd Allen Davis (Davis), hereby stipulate and agree to the following.

1. The Division petitioned for an Order Revoking, Censuring, Suspending or Barring the Licenses of Davis and other Respondents on June 26, 2000.
2. Davis and the Division have agreed to settle these proceedings through this Stipulation and Consent Order (Consent Order). If approved, the Consent Order

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will fully resolve all claims the Division has against Davis pertaining to this matter.

This matter has previously been resolved against the other Respondents.

3. Davis admits the jurisdiction of the Division over him and over the subject matter of this action.
4. Davis waives any right to a hearing to challenge the Division's evidence and present evidence on his behalf.
5. Davis has read the Consent Order, understands its contents and enters into this Consent Order voluntarily. No promises or threats have been made by the Division, nor by any representative of the Division, to induce Davis to enter into this Consent Order, other than as described in this Consent Order.
6. Davis is represented by attorney Paul T. Moxley and is satisfied with the legal representation he has received.

#### **I. FINDINGS OF FACT**

The Division makes the following findings:

##### **Parties**

7. Access Financial Inc. (Access), CRD# 33065, is a broker-dealer licensed by the Division, with its principal place of business in Chicago, Illinois. Access does not maintain an office in Utah.
8. Todd Allen Davis (Davis), CRD#2095162, was licensed in Utah as a broker-dealer agent of Access from November 1995 until January 2000. At all times relevant to

this action, Davis resided in or near Lake Bluff, Illinois, but now resides in Cave Creek, Arizona.

### **Background**

9. In October 1997, Davis traveled to Utah to conduct an investment seminar.
10. The content of the Utah seminar was not disclosed to or approved by Access or the National Association of Securities Dealers (NASD) as required.
11. At the seminar, Davis met Utah resident Craig Wennerholm (Craig). Craig was in control of his parents' assets during a three-year period while his retired parents were out of the country serving a mission for their church.
12. Craig invested \$300,000 of his parents' moneys (Wennerholm account). \$50,000 was invested in October 1997. An additional \$250,000 was given to Access in March, 1998.
13. When opening the account, Craig provided Davis with suitability information to be used in evaluating the suitability of investments. Craig indicated on the new account application that the primary investment objective for the account was growth. Craig believed the money would be invested safely and wisely.
14. At all times relevant to this action, Davis was aware that the money in the Wennerholm account belonged to Craig's retired parents.
15. Davis knew that Craig had little experience with stocks and investing.

16. By December 31, 1998, the value of the Wennerholm account had dropped from \$300,000 to \$84,885.

17. The account was closed on February 25, 1999.

### **Misconduct by Davis**

#### **Suitability**

18. The securities purchased by Davis for the Wennerholm account were primarily high-risk, low-price speculative securities.

19. These securities were not suitable for the account of a 66-year-old retired investor with an expressed investment objective of growth.

20. Davis also conducted significant trading of the account on margin, increasing the risk exposure of the account. The account was charged over \$7,000 in interest on money borrowed.

#### **Discretionary Authority**

21. Davis exercised discretionary authority over trading decisions in the Wennerholm account without prior written permission from the client.

22. Davis exercised discretionary authority over trading in the Wennerholm account when the broker-dealer, Access Financial Group, did not permit its agents to engage in discretionary trading.

#### **Churning and Excessive Trading**

23. Davis "churned" or conducted excessive trading in the Wennerholm account.

24. During the time Davis managed the Wennerholm account, the cost-to-equity ratio was 22.59%, meaning the account would have had to earn 22.59% just to break even. This cost-to-equity ratio is well in excess of standards accepted as reasonable in the securities industry for an account of this nature.
25. Davis generated \$25,795.19 in commissions, based on trading in the Wennerholm account, at a time when the account had dropped in value precipitously.
26. The annual turnover ratio for the Wennerholm account was 7.5. This means the entire portfolio of securities in the account would be purchased and sold an average of 7.5 times each year. A turnover ratio of 7.5 is far in excess of industry standards for an account of this type.
27. Of the Wennerholms' deposit of \$300,000, Davis made purchases totaling \$1,102,598.76. By the time the account was closed, it had incurred a net loss of \$203,792.87.
28. These losses were exacerbated by Davis's conducting trades on margin. (A margin account is a brokerage account which allows a customer to buy securities with money borrowed from the broker-dealer.)

#### Unauthorized Trading

29. The majority of securities transactions in the Wennerholm account were not requested or authorized by the account holder. Davis entered such transactions as part of a "plan" when his investment "system" signaled a buy or sell, and

admitted it was not his practice to call clients on every trade. A review of all the audio recordings of Davis's telephone calls on the dates on which orders were placed to purchase or sell securities in the Wennerholm account during the time period in which the system was operational, showed only one discussion between Davis and the account holder. There were no other conversations between Davis and Craig during this time period.

#### Manipulative Scheme

30. Davis engaged in schemes with promoters of companies unaffiliated with Access to manipulate the price and volume of the trading of low-priced, speculative securities.
31. Davis made purchases of these stocks in the accounts of his clients without the knowledge or consent of the clients.
32. These trades were made in an effort to inflate the price of these publicly-traded securities and to create the appearance of high investor demand for these stocks.
33. Davis executed trades for these securities in the accounts of multiple clients, aggregating their buying power, in order to maximize the impact of the purchases.
34. There were conversations between Davis and company promoters describing their manipulative schemes which were captured on Access' audio recording system.

#### False and Misleading Information

35. In working with promoters of public companies to manipulate their stocks, Davis was aware that the promoters were releasing false and misleading information on the publicly-traded companies. Davis executed transactions in the securities of these companies knowing that this false and misleading information was being distributed.

#### Trading on Inside Information

36. Through his conversations with promoters, Davis learned non-public information regarding the operations of publicly-held companies and their future business plans. Davis purchased stock in certain companies in the accounts of his clients on the basis of that non-public information.

#### Purchases at Prices Other Than Market Value

37. Davis sold securities in the Wennerholm account at a price below the market value of the securities.

#### Material Omissions

38. In his representations to Craig and other clients, Davis omitted facts of which he had knowledge and which would have been important for a customer to know.

These include:

- a. Davis's involvement with promoters to manipulate the prices of securities;

- b. Davis's knowledge that false press releases were being issued by the promoters;
- c. Davis's possession of inside, non-public information regarding the business of public companies;
- d. That securities were being and would be purchased in client accounts to increase the stock price artificially or to increase the trading volume of a stock;
- e. That Davis would be using the collective buying power of his clients' accounts to buy securities to support the share price of stocks being manipulated; and
- f. Davis's actions in selling a security in the Wennerholm account at a price below the market value.

Effecting securities transactions not on the books and records of the broker-dealer

39. Davis facilitated the execution of securities transactions that were not on the books and records of Access. On at least two occasions, Davis wired money to an account at North Shore Community Bank. The funds came from the accounts of Utah residents (other than the Wennerholms) and were used to purchase the shares of a low-priced, speculative security.

Outside Business Activities



40. Davis engaged in business activities outside those of his employing broker-dealer. These included Davis's participation with stock promoters in schemes to manipulate the prices and trading volumes of thinly-traded, low-price, speculative stocks.
41. These outside business activities were not disclosed to, or approved by, Access as required. These outside business activities also were not reported on the Central Registration Depository ("CRD") as required.

#### Unapproved Seminars

42. Davis conducted a seminar at which investors were solicited when the content of the seminar was not approved by the broker-dealer or the NASD, as required.

### **II. CONCLUSIONS OF LAW**

43. Davis made untrue statements of material fact and omitted to state material facts necessary in order to make statements made, in the light of the circumstances in which they were made, not misleading, in violation of Utah Code Ann. § 61-1-1(2).
44. Davis engaged in acts, practices, and/or a course of business which operated as a fraud or deceit, in violation of Utah Code Ann. § 61-1-1(3).
45. Davis engaged in dishonest or unethical business practices in the securities business in violation of Utah Code Ann. § 61-1-6(2)(g), including, but not limited to:
- a. unsuitable recommendations, as proscribed by Utah Administrative Code (UAC) R164-6-1g(C)(3);

- b. exercising discretionary power without prior written authorization, as proscribed by UAC R164-6-1g(C)(5);
- c. excessive trading, as proscribed by UAC R164-6-1g(C)(2);
- d. unauthorized transactions, as proscribed by UAC R164-6-1g(C)(4);
- e. effecting transactions by means of manipulative, deceptive, or fraudulent devices, as proscribed by UAC R164-6-1g(C)(15);
- f. providing false and misleading information to customers, as proscribed by § 61-1-1(2);
- g. effecting transactions based on material nonpublic information, as proscribed by R164-6-1g(C)(15);
- h. entering a transaction at a price not reasonably related to current market price, as proscribed by R164-1-3(C)(1)(a) and R164-6-1g(C)(9);
- i. omitting to disclose material information to customers, as proscribed by § 61-1-1(2);
- j. effecting transactions not recorded on the books or records of Access, as proscribed by UAC R164-6-1g(D)(3); and
- k. undisclosed outside business activities, as proscribed by UAC R164-6-1g(C)(28).

### **III. AGREEMENT**

46. Davis neither admits nor denies the Findings of Fact and Conclusions of Law set forth above but consents to entry of an Order requiring him to:
- a. pay a fine of \$50,000 to the Division. In consideration of Davis's representations about his current financial situation, the fine shall be paid in amounts of at least \$10,000 annually, due at the end of each calendar year, with an initial payment due December 31, 2006. If Davis fails to make any payment, the remaining fine shall become immediately due and payable;
  - b. pay restitution in the amount of \$10,000 to the Wennerholms within one year of the entry of this Order;
  - c. be barred from associating with a broker-dealer or investment adviser licensed in Utah;
  - d. never act as a promoter, founder, owner, officer, director, consultant or partner of i) any Utah domestic public company or ii) issuer with its principal place of business in Utah that has any class of its securities registered by the Division; and
  - e. never engage in any securities business in Utah.

#### **IV. FINAL RESOLUTION**

47. Davis acknowledges that this Consent Order, upon approval by the Division Director (Director) and subject to approval of the Utah Securities Advisory Board, shall be the final compromise and settlement of this matter. Davis further acknowledges that, if the Director and the Advisory Board do not accept the terms of the Order, it shall be deemed null and void and without any force or effect whatsoever.
48. Davis acknowledges that the Order does not affect any civil or arbitration causes of action that third-parties may have against him arising in whole or in part from his actions, and that the Order does not affect any criminal cause of action that a prosecutor might bring.
49. This Consent Order constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Consent Order in any way. This Order may be amended or superseded in the future only by an Order issued by the Director.

Utah Division of Securities

Date: April 4, 2006

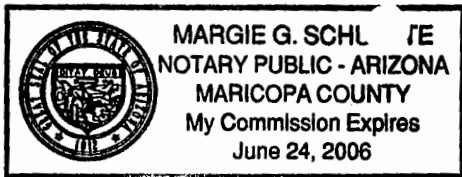
By: G. A. Robison

George Robison

Date: 3-31-06

By: Forbes





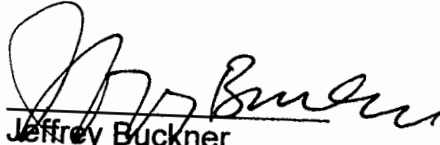
Arizona  
Maricopa County  
commission expires June 24 2007  
Todd Allen Davis appeared before me on  
April 1 2006 H. Schutte

Todd Davis 4-1-06

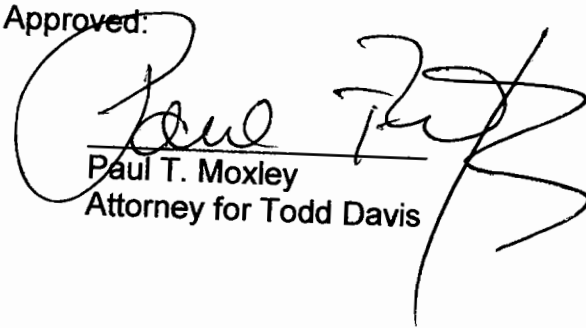
Director of Licensing

Todd Davis

Approved:

  
Jeffrey Buckner  
Assistant Attorney General

Approved:

  
Paul T. Moxley  
Attorney for Todd Davis

## **ORDER**

### **IT IS HEREBY ORDERED:**

1. The Division has made a sufficient showing of Findings of Fact and Conclusions of Law to form a basis for this settlement, though Davis neither admits nor denies the Division's Findings of Fact or Conclusions of Law.
2. Davis shall pay a fine to the Division in the amount of \$50,000. In consideration of Davis's representations about his current financial situation, the fine shall be paid in amounts of at least \$10,000 annually, due at the end of each calendar year, with an initial payment due December 31, 2006. If Davis fails to make any payment, the remaining fine shall become immediately due and payable;
3. Davis shall pay restitution to the Wennerholms in the amount of \$10,000 within one year of the entry of this Order.
4. Davis is barred from
  - a. associating with a broker-dealer or investment adviser licensed in Utah;
  - b. acting as a promoter, founder, owner, officer, director, consultant or partner of i) any Utah domestic public company or ii) issuer with its principal place of business in Utah that has any class of its securities registered by the Division; and



c. ever engaging in any securities business in Utah.

DATED this 6<sup>th</sup> day of <sup>April</sup>~~March~~, 2006.

  
WAYNE KLEIN  
Director, Utah Division of Securities

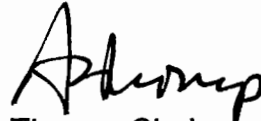


**BY THE UTAH SECURITIES ADVISORY BOARD:**

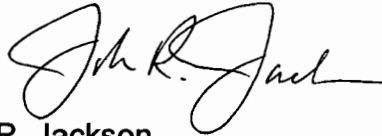
The foregoing Order is hereby accepted, confirmed and approved by the Utah Securities

Advisory Board.

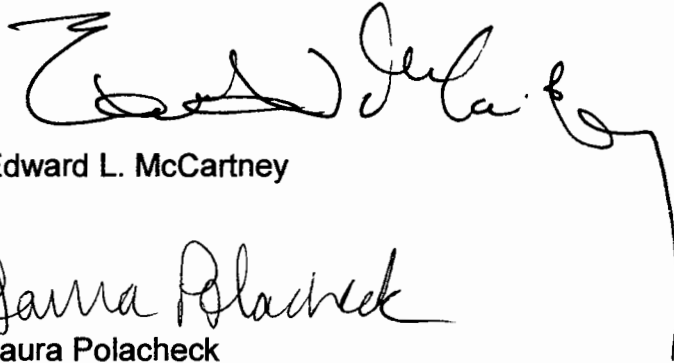
DATED this 17<sup>th</sup> day of April, 2006.



A. Robert Thorup, Chairman



John R. Jackson



Edward L. McCartney



Laura Polacheck

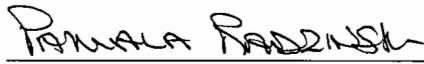


**CERTIFICATE OF MAILING**

I hereby certify that on the 24th day of April 2006, I mailed, regular mail  
postage prepaid, a copy of the foregoing **Stipulation and Consent Order as to Todd Allen**

**Davis to:**

Paul T. Moxley  
Holme Roberts & Owen LLP  
299 S Main Street Ste 1800  
Salt Lake City, UT 84111



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Executive Secretary